

REMARKS

This is in response to the Office Action mailed October 6, 2008. For at least the reasons stated below, Applicants submit that all pending claims are in condition for allowance.

Claims 25-28, 30, 33, 37 and 46-50 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,925,442 to Shapira et al. (“Shapira”). For at least the reasons noted below, Applicants submit the rejection is improper as Shapira fails to identically disclose all of the claimed limitations.

By way of background, Applicants assert confusion regarding the present rejection. In an in-person interview on May 7, 2008, SPE Matthew S. Gart reviewed the previous rejection and acknowledged that the previous rejections appeared to be improper based on the theory that the present application had been improperly assigned to the wrong art unit. Based on SPE Gart’s previous experience in other art units, it was understood that in response to the in-person interview, additional searching would be conducted in relevant classifications.

While Applicants appreciate the holding of the present Office Action as a non-final, pursuant to the in-person interview, Applicants assert confusion because the Examiner-cited art is still entirely unrelated to the claimed invention. The present application has endured a long prosecution history in-part on the Examiner’s unfounded and unsubstantiated reliance on improper prior art (which SPE Gart acknowledged was improper art in the May 2008 interview). This prosecution is thus being even more delayed by the Examiner’s continued reliance on non-relevant prior art.

As noted in further detail below, Shapira is marginally related to the present application only because they both relate to web activity. In terms of application of the disclosure of Shapira to the recited claims, Applicants submit this rejection wholly improper.

From a holistic perspective, in supporting the present rejection of Independent claim 46, the Examiner cites to the Detailed Description for the first step of the claimed method and then for the remaining two steps cites to the 4th paragraph of the Background section. For two thirds of the recited steps, the Examiner does not (and as noted below can not) even cite to the description of the invention itself in Shapira, but rather the Examiner cites to a basic background paragraph that notes web traffic data can be tracked.

After the in-person discussion conducted in May 2008, Applicants anticipated that any additional rejection of the pending claims would be predicated on additional searching and germane prior art. Instead, in response thereto, the Examiner recycles the 3rd reference of a previously unsuccessful three-reference obviousness rejection and instead thus asserts that a reference, which previously only partially contributed to an obvious rejection, actually fully anticipates all recited limitations. Applicants disagree and submit the rejection is improper.

Shapira, as understood, constructs profiles that define products or services a business owner wants to sell and assigns each profile a value (Shapira, column 2, lines 26-29). Software analyzes a web site's log files (which track every exchange of traffic data between the web site and other computers over the Internet) and matches visitors with both an advertising campaign and a profile (Shapira, column 2, lines 29-32). The

software sums the value for each visitor matched with an advertising campaign according to the profiles with which the visitor is matched (Shapira, column 2, lines 33-35). This allows an Internet business owner a way to track the value of visitors who visit the web site (Shapira, column 2, lines 36-39). An Internet business is able to calculate the return on investment for each advertising campaign the business owner is currently running (Shapira, column 2, lines 40-43).

By contrast, independent claim 46 recites a computer implemented method of selecting at least one file representing at least one product, the file relating to a web page on the World Wide Web. The method comprises receiving the web page having content therein. The web page is analyzed to detect a context for the web page using a statistical analysis of the web page content. At least one file representing at least one product related to the detected context is selected.

Shapira fails to identically disclose, among other things, “analyzing the web page to detect a context for the webpage using a statistical analysis.” The Examiner points to Shapira’s discussion of observing and logging traffic data exchanged between a web server and a visitor (Shapira, column 1, lines 27-41). Shapira analyzes a web page using statistical information; however, Shapira analyzes a web page for the purposes of gathering traffic data and hit information directed to a web site or server (Shapira, column 2, lines 29-31; column 3, lines 46-53). Analyzing traffic data and hits relate to communication and requests to a server (Shapira, column 3, lines 18-33). Analyzing traffic data and hits is wholly inconsistent from that of analyzing a web page to detect the context for the webpage because traffic data and hits are not equivalent to the context of a webpage.

Furthermore, Shapira fails to identically disclose, among other things, “selecting at least one file representing at least one product related to the detected context.” The Examiner generally refers to the abstract and column 1, lines 27-41 of Shapira. The abstract discusses analyzing traffic data hits at a web site to determine web pages viewed by a visitor on a web server (Shapira, abstract, lines 3-5). Each qualifying visitor is associated with a qualification profile and a corresponding value (Shapira, abstract, lines 5-7). The association between a visitor with a qualification profile and a corresponding value is not “selecting at least one file representing at least one product related to the detected context. A qualification profile or a corresponding value does not represent at least one product related to the context of web page. Rather a qualification profile and its corresponding value represent a pattern of activity at a web site (Shapira, column 6, lines 5-6). The pattern of activity may indicate a level of interest in a product or server offered at the web site (Shapira, column 6, lines 6-8). The qualification profile is **not** a file representing at least one product related to the detected context because the qualification profile represents only the interest of a product. Clearly, the interest of a product is different than from a representation of a product.

Accordingly, it is respectfully submitted that independent claim 46 is allowable over Shapira. Because claims 25 through 28, 30, 33, 37 and 47-48 depend from independent claim 46, and therefore include all the elements of claim 46, it is respectfully submitted that these claims are allowable for at least the same reasons. Additionally, independent claims 49 and 50 recite elements that are substantially similar to independent claim 46. Thus, for at least the reasons discussed above with regards to independent

claim 46, it is respectfully submitted that independent claims 49 and 50 are also allowable.

For at least all of the above reasons, Applicants respectfully request that the Examiner withdraw all rejections, and allowance of all the pending claims is respectfully solicited. To expedite prosecution of this application to allowance, the Examiner is invited to call the Applicants' undersigned representative to discuss any issues relating to this application.

Respectfully submitted,

Dated: December 30, 2008



THIS CORRESPONDENCE IS BEING
SUBMITTED ELECTRONICALLY THROUGH
THE PATENT AND TRADEMARK OFFICE EFS
FILING SYSTEM ON December 30, 2008.

Timothy J. Bechen
Reg. No. 48,126

Ostrow, Kaufman & Frankl, LLP

Customer No. 61834